

*THE RHODE ISLAND COMMISSION ON WOMEN
TASK FORCE ON POWER AND CONTROL*

A REPORT ON

**POWER AND CONTROL:
DOMESTIC VIOLENCE,
SEXUAL ASSAULT AND ABUSE,
AND SEXUAL HARASSMENT**

April 1993

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MESSAGE

from the

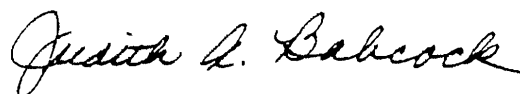
CHAIR

In the legislation that created the Advisory Commission on Women in Rhode Island in 1970, the charge to the Commission was to study issues in all areas of life that affect the status of women and to recommend constructive actions. Updating legislation in 1992, with a new name — Rhode Island Commission on Women — extended that charge to advancing women toward full equity in all areas of life and promoting rights and opportunities for all women. Specifically mentioned were women's health, legal rights, and the quality of individual and family life. The Task Force that developed this report for the Commission has fulfilled this charge.

It is unfortunate that nearly every day, there are reports in the news of incidents of domestic violence, sexual assault, sexual abuse, and/or sexual harassment — with women or girls as the primary victims. We do not know how many such incidents are never reported. And, the incidents are affecting our young people, with reports of sexual harassment by boys as young as 12 and 13 toward their female schoolmates. This has got to stop! What kind of society will we have if such victimization continues?

We on the Commission believe it is important to society and to Rhode Island that we face these issues squarely. Rhode Islanders must understand the issues involved and come to some conclusions regarding the means to overcome abuse and victimization of women and girls. Together, we must all work to implement those means so that these abuses are minimized. We need to work together to be sure that it is clearly understood by all in Rhode Island and in our society at large -- men, women, and children -- that such abuse is unacceptable and will not be tolerated.

The Commission appreciates the large amount of time and effort expended by the Task Force and its Chair in the development of this report. We are confident that implementation of the recommendations of the Task Force will make a difference in the lives of Rhode Islanders. Through that difference, the Commission is making progress toward achieving its mission of enhancing the status of women for the good of all.



Judith A. Babcock, D.Ed.

COMMENTS

from the

EXECUTIVE DIRECTOR

Several individuals have commented about the choice of a cover for this publication. The words "shocking" and "frightening" have been mentioned when the picture is seen for the first time.

Well -- Abuse is shocking, horrible and frightening. Any time one person raises a hand to strike another or picks up an object to do harm, the world ceases to be a nice place.

Attempting to shield the community from the pain of violence and wrapping the Rhode Island Commission on Women's publication in a plain cover, free from visual reminders of the horror experienced by victims of abuse (physical, sexual, and emotional), can also be a way of further victimizing the victim.

As a community, we must become knowledgeable about abuse and its effects upon our citizens. We must begin to feel outrage every time we hear about domestic violence, sexual assault, incest or sexual harassment. We must begin to speak out against abuse. We need to start telling our children, from the cradle, that violence in any form is wrong. We need to begin now to help effect change. We cannot simply push the thought of abuse aside or put it on the back burner until we have to think about it. We may find, when we finally have the time, that it is too late. One of our own family members may then be a victim of abuse.

The Rhode Island Commission on Women requests that the Governor and the General Assembly give serious consideration to the recommendations in this publication, *Power and Control: Domestic Violence, Sexual Assault and Abuse, and Sexual Harassment*.



Mary M. Deibler

***THE RHODE ISLAND COMMISSION ON WOMEN
TASK FORCE ON POWER AND CONTROL***

A REPORT ON

**POWER AND CONTROL:
DOMESTIC VIOLENCE, SEXUAL ASSAULT AND ABUSE,
AND SEXUAL HARASSMENT**

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Prepared in June of 1992 for the Rhode Island Commission on Women

INTRODUCTION

The Rhode Island Commission on Women has undertaken the task of putting together this report on Power and Control: Domestic Violence, Sexual Assault and Abuse, and Sexual Harassment. We hope this report will serve as a useful tool for elected and appointed officials, policy makers, law enforcement officials, court personnel, and the community at large.

This report is designed to provide basic information about domestic violence, sexual assault, and sexual harassment. It explores the scope and magnitude of these problems nationally as well as here in Rhode Island. In addition to explaining the services available to Rhode Islanders, the report also highlights some proposals for future action to improve Rhode Island's response to these social problems. Should you have any questions about the report, please do not hesitate to contact the Rhode Island Commission on Women or the organizations which comprised the committee.

As the information in this report indicates, violence against women and sexual harassment are serious problems both nationally and in the state of Rhode Island. These problems have not evolved in a vacuum. Rather, contemporary society embodies significant economic, social, and political power imbalances between women and men which create a context in which such abuses flourish. Male individuals who batter and abuse their female partners or who sexually assault or harass another person are using their power to reinforce a social construct of gender in which women are considered subordinate to men and are therefore often unable to report the abuses and indignities they suffer. This must change. To this end, the individuals and organizations who developed this report work not only to provide services to women victimized by domestic violence, sexual assault, or sexual harassment, but also to change the social construct of gender to one which embodies equality between the sexes.

The committee recognizes and acknowledges that women's experience is not universal. Women's relationship to these various social problems may be substantially affected by race, class, sexual orientation, age or other circumstances. At the same time, we recognize and acknowledge that our social institutions may respond differently to different women, depending on race, class, sexual orientation, or age. Sensitivity to these issues must be woven into the analysis of violence against women.

As chair of the committee which developed the report, I would like to thank all of the committee members for their contribution to the writing and editing of this important document. The members brought a great deal of expertise to the committee as they represent many of our state's foremost community organizations working on the issues of domestic violence, sexual assault and abuse, and sexual harassment.

*Donna M. Nesselbush, Esq.
Chair, Task Force on Power and Control
August 13, 1992*

EXECUTIVE SUMMARY

Domestic Abuse

- *Abuse in the home is the number one cause of injury to women. In the US, an estimated 2 to 6 million women are battered each year. Domestic abuse occurs among all sectors of society and involves people of all backgrounds.
- *Domestic abuse is abusive behavior which occurs within intimate relationships. It includes physical, sexual, emotional and economic abuse; and the operative issues involve power and control.
- *The impact of domestic abuse on the victim manifests itself in many ways, effecting both the physical and mental health of the victim. Symptoms range from low self-esteem and feeling trapped to Battered Women's Syndrome, a pattern of symptoms similar to Post-Traumatic Stress Disorder.
- *Economically, businesses lose money to abuse-related absenteeism, communities pay for aid and support for the victims, and they withstand the lost resources of underutilized human potential.
- *Domestic violence is a primary cause of homelessness among women and children. Children from abusive homes may be more likely to be abusive and violent themselves, to commit crimes and/or to be substance abusers.
- *Several pieces of progressive legislation have been enacted in Rhode Island, from the 1982 enactment of the pro se temporary restraining order procedure, to making the violation of a civil TRO a criminal misdemeanor, to mandatory counseling for every adjudicated domestic violence offender, a mandatory arrest provision, a court-based victim advocacy program, and mandatory police training.
- *The Rhode Island Coalition Against Domestic Violence is a coalition of seven organizations devoted to solving the problem of domestic abuse, to providing services to victims of domestic abuse, and to preventing domestic abuse from occurring. It is made up of six shelters for battered women and Brother To Brother, an agency which counsels abusive men.
- *The Rhode Island courts aid in the protection of domestic violence victims by funding victim services, by sensitively handling domestic abuse cases and by thoroughly reviewing criminal complaints of domestic abuse. If prosecution is successful, the court must impose a sentence, including counseling for the offender.

Sexual Assault & Incest

- *Sexual assault is an act of violence and aggression, not one of sexual gratification. It involves force, coercion, or manipulation of the victim by the offender.
- *In 1990 the number of rapes reported to authorities in this country exceeded 100,000 for the first time ever. This is a 6 percent increase over 1989 figures - the largest increase ever. In 1991 the RI Rape Crisis Center received 1,752 reports of sexual assault, an increase of 23 percent from the previous year.
- *National studies consistently indicate that at least one in four females and one in six males will be sexually assaulted before age 18. In 1991, 62 percent of the reports of sexual assault in Rhode Island concerned children.

*Sexual assault remains the crime least likely to be reported to police. The FBI estimates that only one in ten sexual assaults is reported. Lack of trust in the criminal justice system and self-blame are major reasons for not reporting.

*The trauma of sexual assault experienced by victims is severe and includes fear, helplessness, guilt, self-blame, shame, embarrassment, anger and denial. Abused children have a tendency toward social isolation, repeated victimization, low self-esteem and substance abuse, among many other difficulties.

*Sex offenders do not commit assaults because of an uncontrollable sexual urge. The offender wants to control, humiliate and exert power over another person. Many sexual assault offenders began abusing others when they were as young as four or five years old.

*The Rhode Island Rape Crisis Center offers services for victims of sexual assault in Rhode Island that include advocacy, counseling and education programs. They and other groups are working on the development of a Children's Advocacy Center in Rhode Island, the improvement of the evidence collection process, investigation and prosecution of sexual assault cases, education of victims and the public, and treatment of offenders.

*It is essential that society address issues of sexual assault and child sexual abuse, both to break the cycle of sexual violence and to assist victims. Efforts must address the issues of prevention and protection, under-reporting, victim services, and offender identification and treatment.

Sexual Harassment

*Sexual harassment is any unwelcome conduct or communication of a sexual nature. It could be a pattern of sexual words or actions ranging from annoyances and distractions to deliberate intimidation and open threats or demands. If the harassment involves unwanted touching of the sexual parts of the body, it could also be considered sexual assault.

*In the workplace or at school, sexual harassment includes any sexual behavior or communication that adversely affects a person's working or learning environment or the ability to do one's work.

*Despite the availability of legal remedies including money damages for victims of sexual harassment, the issues of retaliation and termination of employment or school relationships are not currently adequately addressed.

*Studies indicate that 50 to 90 percent of all working women experience sexual harassment at some time during their working years. The treatment is put up with because of fear of losing a job or a promotion, or of not being able to get a recommendation from their employer for a job elsewhere.

*The Rhode Island Commission for Human Rights is a state agency charged with the legal enforcement of civil rights matters and does not charge for its services. The Commission contracts with the Equal Employment Opportunity Commission to investigate and pursue claims. A case must be filed with the state commission within one year from the alleged date of harm.

*Although no state has a specific law against sexual harassment, sexual harassment is an unfair labor practice and is against federal and state laws designed to protect women from sexual harassment in the workplace. In Rhode Island, sexual harassment is dealt with through the Rhode Island Fair Employment Practices Act.

CHAPTER 1: DOMESTIC ABUSE

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INTRODUCTION

This chapter provides an overview of the problem of domestic violence in Rhode Island, with a vision toward providing more effective prevention and intervention strategies for victims of domestic abuse. In defining the problem of domestic violence in realistic and concrete terms, this chapter may be used to guide the development of an effective response on the local, state and federal levels to assist battered women and society at large in ending violence against women.

The following sections outline the scope of the problem, define domestic violence and discuss the widespread impact of the problem on victims as well as on our social fabric. They then outline the community response to domestic abuse, the evolution of Rhode Island's domestic violence legislation, and the role of law enforcement officials and the courts.

It is our hope that policy-makers, legislators, researchers, front-line staff, law enforcement officers, health care professionals, and victims of domestic violence will continue to make progress in developing effective intervention and prevention strategies to ensure safety for battered women and their children throughout Rhode Island.

THE SCOPE OF DOMESTIC VIOLENCE

Across the United States, an estimated 2-6 million women are battered each year (National Coalition Against Domestic Violence). In Rhode Island, 939 women and children fled to battered women's shelters in 1991 while 2,363 victims of abuse in Providence County alone sought protection through temporary restraining orders. In addition, there were 4,645 misdemeanor domestic violence arrests statewide and 215 felony domestic violence cases in Providence County (Rhode Island Coalition Against Domestic Violence).

Research shows that abuse in the home is the number one cause of injury to women -- more than automobile accidents, rapes and muggings combined (E. Stark and A. Flitcraft, 1987). In fact, one study indicated that domestic violence will occur at least once in two-thirds of all marriages (M. Roy, *The Abusive Partner*, 1982). In recognition of its prevalence, US Surgeon General Antonia Novella announced in June of 1992 that domestic violence is a national problem of epidemic proportions. Yet the magnitude of this epidemic of

violence remains to be acknowledged by society at large. The United States lost 39,000 soldiers in the Vietnam War between 1967 and 1973. During that same time, 17,500 American women and children were killed by members of their own families. Statistics from the first six months of 1992 indicate that a domestic violence homicide occurred every eight days in Massachusetts.

Domestic violence occurs among all sectors of society and involves people of all racial backgrounds, ethnic groups, income levels, and religions. For many women, it begins in their adult intimate relationships; for others, it occurs when they are teenagers or elderly. Professional women are battered as are unemployed, less educated women; lesbians as well as heterosexual women; those who are differently abled, from varied cultures of origin, and from all religions.

Society is only just beginning to understand the scope and the severity of this problem. Before Rhode Island's first battered women's program started in 1974, there were no resources available for abused women, we had no way to assess the magnitude of the problem, and very few legal remedies existed when women did come forward. Experts say that the domestic violence statistics currently available are grossly under-reported. As more and more sectors of society become educated about the issue and involved in ending domestic violence, more women will feel safe enough to reveal their experiences and seek help.

DEFINING DOMESTIC ABUSE

The term domestic abuse describes abusive behaviors which occur within intimate relationships. The relationship can involve an adult child against an elderly parent, a parent against a child, one gay or lesbian partner against the other, ex-partners, non-intimate co-habitants, those with a child in common, or, as is the case most frequently, a man against his female intimate partner. This chapter will focus on the latter example. Although there are cases reported of women battering men, the US Department of Justice reports that approximately 95 percent of victims of domestic violence are women (NCADV).

The one element that all abusive relationships have in common is that one person uses power to control the other person. Several methods of control characterize battering relationships: **physical abuse** (shoving, hitting, slapping, kicking, choking, biting, using weapons, etc.), **sexual abuse** (unwanted touching, making her do sexual acts against her will, treating her like a sex object, rape, etc.), **emotional abuse** (putting her down, name calling, ignoring, isolation from resources and supports, etc.), and **economic abuse** (systemic deprivation or control of financial resources by the abuser). Abusive relationships vary in levels of abuse, but all involve one partner using coercion and force to get what they want or to control the other. In most abusive relationships, the abuse escalates in frequency and severity over time.

Many people ask why battered women stay in violent relationships. The reality is that most battered women do **not** remain in abusive relationships, especially when resources exist in the community to protect them from their batterers (NCADV). To end the violence, most battered women actively seek assistance from a variety of sources, including domestic violence prevention programs, police, lawyers, health care personnel, family members, and the clergy. It is frequently the failure of these individuals and systems to provide adequate support which keeps women trapped in violent relationships.

Those women who decide to leave abusive relationships often face increased physical danger from their abusive partners. Research shows that more women are killed after fleeing violent partners than while staying with them (L. Walker, 1981). Understandably, women are also concerned about their children's safety, and the safety of those who offer help. Although many acts of domestic abuse are also criminal, the criminal justice system has historically failed to effectively deal with these types of complaints. Fortunately, this

is changing as Rhode Island's police departments have received extensive training about domestic abuse and have embraced new laws which assist them in responding to domestic violence calls.

THE IMPACTS OF DOMESTIC ABUSE

Domestic abuse often affects every aspect of its victims' lives. Psychological, medical, economic, and generational impacts are felt in a myriad of ways by the victims, their children, and society at large.

THE PHYSICAL AND PSYCHOLOGICAL IMPACTS OF ABUSE

There has been a tremendous amount written about the impact of domestic violence on a person's physical and mental health, illustrating the negative physiological and psychological effects of living with violence and abuse. The most common consequence of living in an abusive relationship is the loss of self-esteem. When abusers regularly devalue, degrade and mistreat their partners, the sad reality is that the victims begin to believe the deprecatory messages. Victims of domestic abuse often feel confused-- how could the person who purports to love them also abuse them? Abusers often isolate their victims, thereby diminishing their access to friends and relatives who can support or help them. If an abused woman has few emotional and/or financial resources, she may find herself trapped, feeling too overwhelmed to figure out how to escape. Most battered women feel that if they can somehow change their own behaviors, their partners will stop abusing them. In reality, only an abuser can choose to stop his abusive behavior. In severe cases of domestic violence, the pattern of symptoms is referred to as the Battered Women's Syndrome, diagnosed in the ICD-9 as its own separate category and in the DSM-III under the Post-Traumatic Stress Disorder category. The clinical syndrome includes anxiety, affective disorders, cognitive distortions, flashbacks, dissociation, and psycho-physiological disturbances (L. Walker, *The Battered Women Syndrome*, 1981).

Severe psychological manifestations of abuse can include a variety of self-destructive behaviors, including drug and/or alcohol abuse and/or suicide attempts.

THE MEDICAL IMPACT OF ABUSE

Every year, over one million women seek medical help for injuries caused by battering (E. Stark & A. Flitcraft, "Medical Therapy as Repression: The Case of Battered Women," *Health and Medicine*, 1982). Twenty percent of women who go to emergency rooms for medical treatment do so as a result of injuries sustained from domestic abuse (E. Stark, 1979). In addition, women face increased risk of serious physical abuse when they become pregnant. In fact, one hospital reported that 21% of pregnant patients had been battered. These women had twice as many miscarriages as non-battered women (E. Stark, 1979).

Obviously the implications of domestic abuse for those working in the medical profession are enormous. During 1992 the American Medical Association has focused its educational efforts upon making its member physicians aware of this epidemic of violence, advising them to screen all female patients for histories of abuse, which the AMA identifies as a preventable source of future injuries. The Rhode Island Coalition Against Domestic Violence has developed a protocol and special referral cards which physicians and other health care workers can use to refer victims of domestic abuse to shelters other domestic violence prevention and intervention services.

THE ECONOMIC IMPACT OF ABUSE

Studies indicate that businesses lose between three and five billion dollars each year to abuse-related absenteeism. Communities spend millions more each year on the courts, the police, health care and social services in their response to battering. Not only does society pay for the medical, legal and non-profit communities to address domestic abuse, but the lost resources of underutilized human potential can barely be imagined. Because battered women often suffer chronic low self-esteem, their general societal productivity is obviously diminished. Additionally, many are fired due to the consequences of abuse (absenteeism, ill health, or being regularly stalked/ interrupted/ harassed by their abusers while at work).

THE IMPACT OF ABUSE ON CHILDREN

Although Rhode Island's battered women's shelters have long been aware of the impact of domestic violence on children, this impact is just beginning to be acknowledged by researchers. Some have reported that children who witness violence are more likely to become involved in abusive relationships if they are girls, or become abusers themselves if they are boys. While other studies refute these findings (Newberger, General Pediatrics, 1990), it seems clear that children are profoundly affected by violence in their homes. Children who witness domestic violence between their parents suffer their own emotional crises. Many children from violent homes miss school because of the abuse, move frequently between schools as their mother attempts to flee her abuser, or are physically, emotionally, and/or sexually abused themselves. Some turn to substance abuse, crime, or delinquency as a result of abuse in their homes.

THE IMPACT ON HOUSING AND HOMELESSNESS

National surveys have found domestic violence to be a primary cause of homelessness for women, especially women with children (Hagen, 1987). This appears to be the case in Rhode Island as well. The **Rhode Island Emergency Shelter Information Project** reported at the end of 1990 that domestic violence is the "single leading cause of homelessness" in Rhode Island. 28.6 percent of those seeking shelter during the second half of 1990 reported that domestic violence was the cause. This represented an increase of 4 percent over the same period the year before.

The frightening reality of domestic abuse shatters the concept of "home" as a place where one is safe. For abused women, home is a prison, a place more dangerous and frightening than anywhere else. This reality distinguishes battered women from other homeless women, because they must not simply find a home, but also, find safety.

Furthermore, recent information indicates that affordable housing opportunities have disproportionately favored single men. Landlords often discriminate against women with children, because cultural values stigmatize them as "unstable" families, when in reality such families are often seeking stability and safety from their abusive partners.

RICADV: THE COMMUNITY RESPONSE TO DOMESTIC ABUSE

The **Rhode Island Coalition Against Domestic Violence (RICADV)** is a feminist coalition of organizations whose primary purpose is ending domestic violence against women. The coalition serves its member agencies and the public by acting as a clearinghouse for resources and information, offering technical

assistance, coordinating statewide education efforts, and by advocating for social change through educational and legislative work.

The following organizations are members of RICADV and work primarily with battered women and their children:

The Blackstone Shelter (*Pawtucket/ Central Falls*)

Elizabeth Buffum Chase House (*Kent County*)

Newport County Women's Resource Center (*East Bay/ Newport Area*)

Sojourner House (*Providence/ Northern Rhode Island*)

The Women's Center of Rhode Island (*Greater Providence*)

Women's Resource Center of South County (*Washington County*)

These programs offer a variety of services to victims of domestic violence, including emergency shelter, 24-hour hotlines, children's programs, community-based and prison-based support groups, community education, personal advocacy in the community and in the courts. In addition, several RICADV member agencies offer follow-up for women who have left abusive relationships, support groups for children who witness violence, and prevention programs.

Brother to Brother is a RICADV member which focuses on working with abusive men. This agency runs educational support groups which are designed to end male violence against their intimate partners. In collaboration with battered women's programs, Brother to Brother works on prevention and education programs across the state.

The **Rhode Island Department of Attorney General Domestic Violence Unit** provides a myriad of domestic violence services, including assisting victims of domestic violence as well as providing expert domestic violence training to law enforcement personnel, probation officers, and medical providers.

PREVENTION

As victims of domestic violence came forward seeking assistance in greater numbers than ever before, our state's domestic violence prevention organizations began to recognize the need for prevention programs, in order to halt the insidious cycle of family violence. Each of the battered women's shelters devotes resources to educating women and the public at large in order to dispel myths about battering and provide information regarding domestic abuse prevention. Key elements in all prevention efforts include helping the public identify domestic abuse as a serious problem within relationships and offering them practical solutions to employ when they detect abuse.

Rhode Island's domestic violence prevention organizations have also developed special programs for audiences such as children who witness the domestic abuse of their parents, elementary school children, and high school and college audiences. These programs, which condemn abusive behavior as an acceptable means by which to solve conflict, can effectively break the socialized pattern of resolving conflict violently. With more resources and in collaboration with like-minded special interest groups, such programs could be expanded to reach more children, youth, and adults in Rhode Island.

The Rhode Island legislature is to be applauded for enacting several pieces of progressive legislation designed to improve our society's response to domestic violence. Former Representative Marion Donnelly and Representative Barbara Burlingame have been instrumental in shepherding important domestic violence proposals through the legislature. In turn, the Rhode Island court system has by and large aggressively enforced these new laws.

In 1979, Rhode Island passed its first domestic violence law creating a specific statutory offense entitled "domestic assault." With a criminal statute in place, domestic violence workers began to help battered women obtain temporary restraining orders (TRO) through the Superior Court System. The expense of hiring an attorney, however, precluded many battered women from obtaining this protection, and the lack of criminal enforceability made the efficacy of such orders questionable.

In 1982, the Rhode Island General Assembly enacted legislation creating a *pro se* domestic abuse TRO process, vesting the family court with jurisdiction. In the following year, the General Assembly made the violation of a civil TRO a criminal misdemeanor, thereby establishing the relationship between civil remedies and the criminal law necessary to protect individuals from domestic abuse. In 1985, the legislature established another *pro se* restraining order process in the Rhode Island District Court which permitted a different and broader class of individuals to file for TROs.

With civil protections secure, battered women's advocates turned again to the criminal aspects of domestic violence. Advocates discovered that police generally would not arrest an alleged perpetrator unless the victim signed a complaint. Following an arrest, police routinely dropped charges upon the victim's request, regardless, in many cases, of the seriousness of the crime. Victims may have a myriad of reasons for requesting police to drop the charges; many fear that their abusive partners will be sent to jail or heavily fined, and some fear retribution. In an effort to encourage more victims to cooperate with the criminal justice system, the 1986 General Assembly amended the domestic assault statute to include a provision in the penalty section requiring courts to mandate counseling for every adjudicated domestic violence offender.

In 1987, Rhode Island Supreme Court Chief Justice, Thomas F. Fay, commissioned a Supreme Court Task Force on Domestic Violence. In June of 1988, as a result of that Task Force's work, the General Assembly enacted sweeping domestic violence legislation which included a mandatory arrest provision, a court-based victim advocacy program, and mandatory police training. All have indelibly changed Rhode Island's legal response to domestic violence.

In 1990, the General Assembly once again amended the domestic violence laws to allow individuals to petition the Family Court for child support and to expand the class of district court TRO petitioners to include persons involved in an intimate, sexual relationship with the defendant within the preceding six months. Additionally, the amendment allowed a person cohabitating with the defendant during the preceding three years to petition the court for protection from abuse. Finally, in 1991, the General Assembly enacted legislation which requires the Family Court, when making decisions regarding child custody and visitation, to consider evidence of past or present domestic violence, if proven, as a factor **not** in the best interest of the child. Moreover, the legislature mandated that, where domestic violence is proven, any award of joint custody or any grant of visitation shall be arranged so as to best protect the child and the abused parent from further harm. The future promises additional legislative and judicial endeavors to enact and enforce effective domestic violence laws in Rhode Island.

*Citing Nesselbush, "From Rule of Thumb to Rule of Law: The Evolution of the Rhode Island Legal System's Response to Domestic Abuse," 25 *Suffolk Law Review* 421 (1991)

*THE ROLE OF LAW ENFORCEMENT OFFICIALS**

In Rhode Island, any crime can be a domestic violence crime if the crime is perpetrated by one family or household member against another. The traditional legal notion equating domestic violence with spousal assault is now antiquated. The new legal definition includes such crimes as vandalism, breaking and entering, sexual assault, homicide, and other similar crimes, provided the victim and perpetrator are family or household members.

When responding to domestic violence situations, the primary duty of Rhode Island police officers is to enforce the law and to protect the victim. Rhode Island has joined a minority of other jurisdictions that have statutorily mandated arrest in certain domestic violence situations. Rhode Island's mandatory arrest law states that police officers must arrest an individual whenever they have probable cause to believe that the individual committed any one of the following acts: felonious assault; an assault resulting in bodily injury to the victim, regardless of whether the injury is observable by the officer; physical action intended to cause another reason to fear imminent serious bodily injury or death; violation of a protective order, or violation of a no-contact order. In addition, when more than one party has complained of domestic violence, or when an officer has probable cause to believe that the parties have assaulted each other, Rhode Island law neither requires the officer to arrest both parties nor allows the officer to dismiss the incident by presuming two party guilt. Rather, the law exhorts the officer to investigate each complaint and to arrest the primary physical aggressor.

Significantly, Rhode Island's domestic violence arrest laws grant police officers immunity from civil actions for false arrest if the arrest is based on probable cause or the good faith enforcement of a domestic violence protective order. Immunity from a false arrest suit, however, does not preclude suits based on excessive force or any other state or federal cause of action. Rhode Island's police are also required to help domestic violence victims obtain immediate medical attention, including transportation to an emergency medical facility. Rhode Island law requires that police officers assist victims and inform them of their rights. Finally, the law requires that the Attorney General develop a uniform policy for police response to domestic violence, that every police department implement a policy for police response to domestic violence consistent with the uniform policy, and that each police officer responding to a domestic violence call complete a domestic violence report.

*THE ROLE OF THE COURTS**

Once law enforcement personnel make an arrest, they may either bring the defendant before a bail commissioner or hold the defendant in custody until arraignment. In domestic violence cases, Rhode Island law mandates bail commissioners to issue a no-contact order prohibiting the defendant from contacting the victim. Likewise, the law requires that the court, at the time of the arraignment, determine whether to issue or extend the no-contact order.

The most critical aspect of the courts' role in domestic violence cases is the responsibility to make clear to the defendant and the victim that the police and/or city solicitor, not the **victim**, makes the decision whether or not to prosecute the case. If the prosecution is successful, or if the defendant pleads to the charge, the court must impose a sentence. Rhode Island law requires that domestic violence counseling be a part of every sentence the court imposes upon domestic violence offenders. Thus, in addition to any other sentence

*Citing Nesselbush, "From Rule of Thumb to Rule of Law: The Evolution of the Rhode Island Legal System's Response to Domestic Abuse," 25 *Suffolk Law Review* 421 (1991)

imposed or counseling ordered, a domestic violence offender must be ordered to attend a counseling program to address violent behavior at an agency with demonstrated expertise in counseling batterers.

Despite improved statutory provisions designed to protect domestic violence victims and prosecute batterers, statutes alone are not enough to overcome the previous societal attitudes which perpetuate domestic violence. Additional change is required to make the intricate court system work such that victims of domestic violence crimes emerge from the justice system better off than when they entered. To this end, Rhode Island law provides for a Domestic Violence Court Advocacy Program which is responsible for advising domestic violence victims of their rights and helping them to secure those rights; informing victims of the availability of civil orders of protection and assisting victims in obtaining such orders; referring victims to shelters, counseling and other services; and monitoring the system's treatment of domestic violence.

Although more resources are needed for staffing this program, it has demonstrated during the first several years of its implementation that support and advocacy for victims of domestic violence can impact dramatically in effective legal intervention and access to support services.

AN AGENDA FOR THE FUTURE

While there is no short term solution to make the problem of domestic violence disappear, it is critical to develop additional resources to ensure that the progress that has been made in eliminating domestic violence is not erased over time. In addition, intervention strategies, prevention programs, and support services need to be more readily available to people throughout Rhode Island in order to break the cycle of abuse which exists in so many families. Crisis hotlines, group support services, psycho-educational programs, advocacy and case management services and shelter services remain underfunded in each of the six battered women's shelter programs in Rhode Island.

The irony of this work is that despite advocates' tireless efforts, the real solution to the problem of domestic abuse lies in shifting our culture's attitude about when it is appropriate to belittle, degrade, slap or hit an intimate partner. The answer, of course, is that it is **never** acceptable to belittle, degrade, slap, hit or otherwise abuse one's partner. The Rhode Island domestic violence prevention network invites all facets of our society to join in the effort to end domestic abuse in today's families and future generations.

CHAPTER 2: SEXUAL ASSAULT AND SEXUAL ABUSE

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INTRODUCTION

This position paper will define sexual assault and provide an overview of the problem of sexual violence in our culture, including the impact of the crime on victims and information about offenders. It will outline current community responses to the problem and list recommendations for continued actions.

DEFINITION OF SEXUAL ASSAULT

Sexual assault, child sexual abuse and incest are traumatic intrusions into the lives of human beings. Sexual assault is an act of violence and aggression, not one of sexual gratification. While some forms of sexual assault are not obviously violent, they nevertheless involve force, coercion, or manipulation of the victim by the offender. Under these circumstances, the victim is forced to give up control over her/his life.

In Rhode Island, sexual assault is defined legally to include three "degrees" of offenses:

First degree sexual assault describes any forced or coerced penetration of the vagina, anus or mouth by any part of another person's body or by an object.

Second degree sexual assault describes any forced or coerced contact with a person's genital area, inner thigh, buttocks, or the breast of a female.

Third degree sexual assault describes consensual sexual activity where one person is age eighteen or older and the other is over the age of fourteen but under the age of consent (16 years of age).

Rhode Island law also makes special provisions for children. In Rhode Island, children under age fourteen are protected under child molestation laws: **first degree child molestation, sexual assault** and **second degree child molestation sexual assault**. These laws are similar to first and second degree sexual assault in definition but make recognition of the fact that even when a child consents to the contact, sexual activity with a child is inappropriate and illegal.

THE EXTENT OF THE PROBLEM

Sexual assault is a problem of epidemic proportions in the United States. It is a crime that affects women and men, adults and children. It is a problem that continues to escalate at an alarming rate throughout the country.

A 1991 Senate Judiciary Committee Majority Staff Report entitled *Violence Against Women: The Increase of Rape in America in 1990* concluded that in 1990, more women were raped than in any year in United States history. In 1990 the number of rapes reported to authorities in this country exceeded 100,000 for the first time ever. This figure represents a 6 percent increase over 1989 figures - the largest increase ever. Furthermore, in 1990, over one half of the states (29) set all-time records for increased numbers and rates of rapes. In general, the rape rate has increased four times faster than the overall crime rate in the last decade. In 1990, according to the FBI, there were twelve rapes every hour, or nearly 300 every day.

An April 1992 report prepared by the National Victim Center and the Crime Victims Research and Treatment Center came to equally disturbing conclusions. That study found that one out of every eight adult women (at least 12.1 million women) in the United States has been the victim of rape. More than 61 percent of these sexual assaults occurred before the victims reached the age of eighteen: 29 percent occurred when the victim was less than eleven years old; 32 percent occurred when the victim was between the ages of eleven and seventeen.

National studies consistently indicate that at least one in four females and one in six males will be sexually assaulted before the age of eighteen. Approximately 95 percent of the time the offender will be someone whom the child knows and trusts (*Child Sexual Abuse*, Finkelhor, 1984). Several studies have found that as many as 25 percent of children are abused before the age of five. Other studies have found that in at least 11 percent of incest cases, the abuse starts before the age of five (*The Secret Trauma*, D. Russell, 1986). Clearly, all children are at high risk of becoming victims of abuse and assault, and preschool children appear to be at least as vulnerable as other groups.

Data collected in Rhode Island reflects the trends seen nationally. During 1991, the Rhode Island Rape Crisis Center received 1,752 reports of sexual assault, an increase of 23 percent from the previous year. In 62 percent of the reports the victim was a child (under the age of 18) at the time of the assault: 46 percent were under the age of 14; 16 percent were between the ages of 14 and 17. The ages of the victims ranged from 3 months to 76 years. In the majority of reported cases (89 percent) the victim was female, but reports by males who had been assaulted increased slightly over 2 percent from the previous year.

The Department for Children, Youth and Their Families (DCYF) becomes involved in cases of incest and abuse of children by caretakers. During 1991, DCYF investigated 896 cases of child sexual abuse (involving 998 children). Of these, 543 reports (involving 620 children) were held by the department to be verifiable. The highest percentage of these cases involved children five years of age and younger.

UNDER-REPORTING

Sexual assault remains the crime least likely to be reported to the police. For example, of the women questioned for the National Victim Center study only 16 percent ever reported the crime to the police. The FBI estimates that only one in ten sexual assaults is reported. By comparison, the FBI report notes that the reporting rate for robbery is 53 percent, for assault 46 percent, and for burglary 53 percent. Researchers have also found that young women are the least likely of all to report rape. Less than 5 percent of college

There are many reasons why victims of sexual assault do not report the crime. A 1986 study (*Sexual Coercion and Assault*; March/April 1986; "Experimental Validation of a Model for Predicting the Reporting of Rape," White and Mosher) highlights two reasons in particular. The study found that women who blamed themselves for the assault were less likely to report. In addition, it was found that the beliefs a victim holds about the effectiveness and consideration of the response she would receive from the criminal justice system were determining factors.

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THE IMPACT ON VICTIMS

The trauma of sexual assault experienced by victims is severe. One source describes sexual assault as "...the penultimate violation. Short of being killed, there is no greater insult to the self." (*The Crime Victim's Book*, Bard and Sangrey, 1986) Without intervention and support, victims can suffer a lifetime of trauma.

Following a sexual assault, a victim may experience a variety of traumatic responses. It is common for victims to experience fear, helplessness, guilt and self-blame, shame and embarrassment, anger, and denial. Many victims experience extreme mood-swings, as well as eating and sleeping difficulties. The National Victim Center study indicates that rape-related post traumatic stress disorder increases a woman's risk for major alcohol and drug problems. It further indicates that nearly one third of all rape victims develop rape-related Post-Traumatic Stress Disorder.

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Abused children suffer from a variety of long-term consequences. Several studies have found that once children are abused, they are more likely than their nonabused peers to continue to be physically and sexually victimized. Many sexually abused children lack trust and have a tendency toward social isolation, difficulty in establishing close relationships, and some even turn to suicide. Victims of child abuse often exhibit aggressiveness and low self-esteem. Adolescents are likely to become runaways, substance abusers, or delinquents. Considerable data correlates female prostitution and previous sexual abuse. Studies have shown that drug and alcohol abuse are more common in victims of child sexual abuse than their nonabused peers.

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THE OFFENDER

The key to understanding the sex offender is to recognize that sexual assault is not motivated by sexual desire. It is an act of violence, often motivated by anger and a need to control someone else.

Sex offenders do not commit assaults because of an uncontrollable sexual urge. Over 60 percent of those included in behavioral studies indicated that they planned their assaults beforehand. Offenders want to control, humiliate and exert power over another person. They choose vulnerable people to assault and use sexual acts as their weapon.

Sex offenders are not insane or out of control. In a study conducted at Bridgewater State Prison, 97 percent of convicted offenders tested "normal" in psychological tests. However, these same people were found to have extremely high levels of aggression.

In approximately 20 percent of the reported child sexual abuse cases, the offender was another child. Studies

have found that many sexual assault offenders began abusing others when they were as young as four or five. Over half of the adults who are convicted of child sexual abuse report that they began committing sexual offenses as children.

Reports also indicate that more often than not victims were acquainted with their offenders. In only 13 percent of the assaults reported was the offender a stranger. In 53 percent of reported cases the victim and offender were acquainted, while in 34 percent of the cases, the victim and offender were related.

THE COMMUNITY RESPONSE

The **Rhode Island Rape Crisis Center** remains the sole state-wide agency offering comprehensive services to victims of sexual assault. The agency was formed in 1973 by a group of women who were concerned about the problems of rape and sexual assault and the lack of available services for victims in Rhode Island. Since that time the agency has provided services for thousands of victims (women and men, adults and children) through its advocacy, counseling, and education programs.

The Center operates a 24-hour, statewide crisis intervention hotline for victims of sexual assault and their families. Crisis-intervention advocates are available to provide confidential support and information on the phone, and to provide advocacy at hospitals, police departments and court. Services have been expanded in the last two years to offer even greater assistance to victims involved in court actions (criminal, family, and civil). A legal advisory task force of Rhode Island attorneys has been established to assist the agency and clients in particularly difficult cases.

Counseling services are available for survivors of sexual assault, child sexual abuse and incest, through individual, group and family counseling.

The agency offers a prevention program for school children (pre-school through high school) as well as programs specifically designed for college groups. The agency's speaker's bureau provides programs on a variety of topics related to sexual abuse, including myths and facts, date and acquaintance rape, medical and legal issues, prevention, assertiveness training, sexual harassment and the politics of rape.

The **Attorney General's Task Force on the Sexual and Violent Physical Abuse of Children** has brought together professionals from all of the various disciplines who must work together in child sexual abuse cases. The goal of the task force is to reduce, as much as possible, the additional trauma children and their families experience in the process of investigation and prosecution of child sexual abuse cases. To that end, task force members have worked for the past three years to develop a Children's Advocacy Center in Rhode Island. The Center would provide for a child-friendly environment where all interviews of the child would be conducted and where multi-disciplinary groups would work together to coordinate all aspects of cases.

The **Rape Advisory Committee**, a multi-disciplinary group co-chaired by Dr. David Uliss of the RI Department of Health and Peg Langhammer of the RI Rape Crisis Center, addresses issues related to evidence collection, investigation and prosecution of sexual assault cases. In the past few years this group has designed an evidence collection kit that is now used by all area hospitals. The Rape Advisory Committee designed a training program for hospital personnel in the use of the kit and made a step-by-step training video that has been distributed to all hospitals. The committee has also worked with personnel from the Department of Health in the creation of a DNA testing facility, specifically in the formation of a DNA oversight committee to consider both ethical and legal issues related to DNA testing.

on campus at local and national levels, established a statewide **Task Force on Sexual Assault on Campus**. The task force was comprised of administrative and student representatives from all Rhode Island campuses, as well as professionals from key community organizations. In April 1992 the Task Force presented its recommendations to Governor Sundlun and to the presidents of all Rhode Island colleges. These recommendations addressed issues related to education and prevention, reporting, victim services and campus security.

In 1992 the Rhode Island General Assembly authorized the creation of a **Legislative Commission** to study issues related to the prosecution, adjudication and treatment of both adult and juvenile sex offenders. This legislation was introduced by Representative Nancy Benoit at the request of the RI Rape Crisis Center.

The Sexual Assault Networking Group (SANG) is a coalition of treatment providers throughout Rhode Island who focus on issues of child sexual abuse.

RECOMMENDATIONS

It is essential that society address issues of sexual assault and child sexual abuse, both to break the cycle of violence and to assist victims. Efforts must address issues of prevention and protection, under-reporting, victim services and offender identification and treatment.

PREVENTION

Prevention efforts and education programs must be specifically designed for children of all ages and for their parents and teachers. Child assault prevention programs should be mandatory in all schools, including Head Start and day care programs.

Many of the identified juvenile offenders have special problems in school, such as learning disabilities, special education needs, behavioral problems and parental loss. It is imperative, therefore, that all teachers be trained in juvenile offender prevention as well as victim impact issues.

PROTECTION

While education and prevention efforts are essential, it must be recognized that in many instances the offender is a primary caretaker of a child. Therefore, a network of support for children must be provided. It has been recognized nationally that the most effective intervention is a multi-disciplinary approach to the problem.

While it is not possible to remove all risk of abuse from children's lives, there are actions that can be taken to reduce that risk. These include the following:

- *All staff in programs and agencies that work with children should be educated about sexual abuse, and given techniques for recognizing potential offenders as well as a means for screening out potential offenders when they are not recognizable.
- *All adults applying for positions working with children should be required to go through police

and child protective service screenings.

CRIME REPORTING

Victims of sexual assault must be empowered to report the crimes committed against them. They must be able to trust in the ability of the criminal justice system to respond appropriately and successfully to complaints of sexual assault.

- *Professionals at all stages of the criminal justice process must have thorough training in victim impact issues, offender patterns and the dynamics of sexual assault and child sexual abuse.
- *Protocols for investigation and prosecution should be developed to ensure consistency in treatment of cases.
- *Professionals in law enforcement and prosecution should be educated about successful strategies in combatting defense positions.
- *Judges should be educated concerning offender patterns and offender treatment issues to ensure appropriate sentencing.
- *There should be greater coordination between the Family and Criminal courts in cases concerning child sexual abuse.
- *A multi-disciplinary approach to investigation, prosecution and treatment should be encouraged in all sexual assault/abuse cases (involving both adults and children).
- *Children's special needs must be addressed in the criminal justice process. Strong support of a Children's Advocacy Center to coordinate investigation, prosecution and treatment is needed.

VICTIM SERVICES

Adequate funding must be made available for the continuation and expansion of support and treatment services for adult and child victims throughout the state. Crisis-intervention, ongoing counseling, and support of victims' families are all essential to the well-being of victims.

OFFENDER TREATMENT

The establishment of treatment programs for both adult and juvenile offenders is a key element in reducing sexual violence.

CHAPTER 3: SEXUAL HARASSMENT

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INTRODUCTION

Although various highly publicized cases have recently brought the issue of sexual harassment to the fore, the issue is actually one which has been the source of much legislation and caselaw over the past ten years.

As early as 1964 with the passage of the Civil Rights Act, discrimination on the basis of gender in employment (Title VII) and in education (Title IX) was prohibited by federal law. However, for many years, sex discrimination was not interpreted to include sexual harassment, e.g. unwanted sexual advances, in the workplace. Gender discrimination was initially narrowly defined to include such practices as refusing a woman service in a club or restaurant based upon her gender or excluding a worker from applying for a job because the job was for "men only" or "women only."

It was not until the 1980s that courts began to interpret sexual harassment, that is, discriminatory treatment of a sexual nature in the workplace, as conduct actionable under Title VII of the Civil Rights Act of 1964. It was not until 1991 that the Supreme Court determined that a student who was sexually harassed in the school setting could obtain money damages against the school. This developing caselaw and interpretation of the federal statutes does not stand alone. Rather, it must be read in concert with the parallel state laws which have been passed prohibiting sexual harassment in the workplace. In Rhode Island, the Fair Employment Practices Act parallels federal law and prohibits gender discrimination in the workplace, including sexual harassment within the statute's own definition of sex discrimination. These statutes appear to have been reinforced by the Rhode Island Civil Rights Act of 1990 which expanded remedies for various forms of discrimination, including gender discrimination, to include compensatory and exemplary damages as well as court costs and attorney's fees.

The Federal Civil Rights Act of 1991 also expanded remedies in the realm of money damages for sexual harassment (although it still imposes caps on damages depending upon the size of the employer). Both federal and state executive orders prohibit sex discrimination in Federal and State employment settings and for recipients of government funding.

Despite these legislative protections and a more expansive judicial interpretation thereof, problems of sexual harassment in the workplace and educational setting certainly persist.

WHAT IS SEXUAL HARASSMENT?

Sexual harassment is any unwelcome conduct or communication of a sexual nature. It includes flashing, obscene phone calls, sexual comments and sexual advances. In the workplace or at school, sexual harassment includes any sexual behavior or communication that adversely affects a person's working or learning environment or the ability to do one's work. It could be a pattern of sexual words or actions ranging from annoyances and distractions to deliberate intimidation and open threats or demands. It may also include teasing, vulgar remarks, derogatory or flattering comments on one's appearance, pinching, patting, blocking free movement, sexual propositions and/or the suggestion of sexual acts in exchange for employment, a raise, a promotion, grades, or special privileges. If the harassment involves unwanted touching of the sexual parts of the body, it could also be considered sexual assault (RI Rape Crisis Center, Front Lines, February 1992).

EXAMPLES OF SEXUAL HARASSMENT IN EMPLOYMENT

CASE A

A woman worked for a computer company for two years, holding a very technical job. She was highly qualified for her work and was considered an excellent employee. Her supervisor was also her friend, and they often had lunch together, took walks, and she even had dinner at his house with his family.

Gradually the friendship changed. He said he wished things were different with him so they could be more than friends. She began feeling very uncomfortable around her supervisor because she began to feel his interest in her was sexual.

One day the supervisor called her from work while she was home, and he told her that he loved her. At work, he would kiss her on the cheek against her protests. The woman told the supervisor to stop it: she didn't want to hear any more.

The woman went to the company manager and complained. The supervisor was questioned but he said that the woman made it all up. Management took the woman's complaint very seriously and told the supervisor his behavior was intolerable. The supervisor explained to the manager that the woman was over-reacting, and the manager thought that perhaps there was some misunderstanding on both of their parts.

The woman requested a week off to think about things. She also requested that she have no contact with the supervisor. While home, the supervisor called her three times, but he stated it was for business reasons only. He also sent her a card of apology. The woman did not want to return to work if he continued as her supervisor, so she quit. The company did not want the woman to quit and even recommended that the woman and her supervisor see a counselor.

The woman contacted the Rhode Island Commission for Human Rights one month after leaving the company. The Human Rights Commission conducted a fact-finding conference, at which the company manager said that he wanted to "fix the problem." Although the supervisor was not reprimanded, he was provided counselling and guidance on supervising employees.

The case settled for a small amount of money. The company agreed to adopt a stronger sexual harassment policy for the workplace; training and a policy statement on sexual harassment were given to all employees.

CASE B

A woman was employed by a food store for almost two years. She was a supervisor in the produce department. There was a new stock clerk who spoke to her in what she described as a sexually suggestive way. He also stared

at her and brought her flowers which she refused to accept. He continually asked her out for dates and she always said no. He made comments to co-workers that she made him "horny."

The woman usually reported to work at 6:00 a.m. The stock clerk, whose reporting time was 9:00 a.m., began coming to work very early, and the woman began feeling afraid of him. She complained to his supervisor, who told the clerk to stay away from her or he would be fired. He continued the harassment and the woman complained to the Rhode Island Commission for Human Rights.

The woman decided she would not go back to work until she was assured that the clerk would not be in the building when she was there. The food store could not or would not agree to such an assurance. The woman did not show up for work for three days and, subsequently, was fired.

At the Commission's fact finding conference, the food store said that the clerk had also been fired even though they thought the woman's allegations were vague. They said that they fired the female complainant because she would not come in and talk to them face to face, and they considered her a "no-show."

The Commission ruled in favor of the woman even though the food store management did not feel that they had done anything wrong. The case was settled for a large sum of money in the conciliation stage.

EXAMPLES OF SEXUAL HARASSMENT IN ACADEMIA

CASE A

Last semester, Cynthia, a graduate student, had Jerry as a professor, though they had little interaction. This semester, Jerry frequently compliments Cynthia on her appearance. At first Cynthia was embarrassed though somewhat flattered. However, she is now feeling increasingly uncomfortable and self-conscious.

Jerry has continued to be complimentary and friendly to Cynthia, often touching her arm or putting his arm around her shoulder when they chat. Jerry is a well-respected scholar in an area in which Cynthia is interested. Cynthia's advisor recommends that she talk with Jerry about working with him on her thesis and dissertation. With some hesitation, she makes an appointment with Jerry, but is sure to dress in a conservative and unassuming way.

A few weeks after their meeting, Jerry tells Cynthia that he has some ideas that might be useful for Cynthia to consider in developing her research. He says that he is really busy and stressed during the day with classes and meetings, but would like to discuss this with her over a drink at the end of the day where things would be a little more relaxed.

After talking for about an hour, Jerry tells Cynthia that he is very attracted to her and invites her back to his apartment. He lets her know that if she is nice to him, he can do a lot to make her graduate work go smoothly and help her find a job. Cynthia makes an excuse and leaves the bar. Over the next few weeks, Jerry calls her frequently at home to inquire about her work and suggest reasons why they should meet.

CASE B

Jennifer is a fairly new junior faculty member. Matt is a senior faculty member who everyone knows as a joker around the department. She has heard him make jokes she considers sexist but has never said anything. One morning, Matt says to her, "Wow, don't you look sharp. In a sexy outfit like that, I'm sure your male students will be paying attention—though maybe not to your lecture."

Matt's general behavior continues and on occasion is directed at Jennifer. Jennifer also begins to hear from a

few female students in Matt's classes that they are offended and feel uncomfortable with some of the examples he uses in class which sexualize and devalue women. For example, "Women don't envy having a penis, they just want to get more of it." They also feel he sometimes looks at their breasts and legs.

One afternoon, Jennifer sees Matt talking and joking with a few students in the hall. As they break up to leave, she watches him pat a couple of the women students on the rear as he says good-bye.

ANALYSIS

The key issue illustrated by these cases is that despite the availability of legal remedies including money damages for victims of sexual harassment, the issues of retaliation and termination of employment or school relationships are not currently adequately addressed. The graduate student who must rely on this advisor for the granting of a degree as well as for referrals to subsequent job opportunities cannot necessarily substitute a sum of money for a career which can be completely derailed if she takes legal action against that all-important advisor.

An employee who has been sexually harassed faces the difficult task of explaining a large gap in her/his work history which often results when one's employment is terminated surrounding a sexual harassment complaint. Even though she may receive compensation for lost wages and other damages, she may not be able to recoup the lost career momentum or the perception of future employers that she is "trouble." Therefore, the adage that one must "go along to get along" is not effectively refuted by the existing statutory and caselaw structure.

EXAMPLES OF SEXUAL HARASSMENT CASES WITH NO CURRENT REMEDY

CASE A

Marybeth is a physician's assistant in a four person office that includes the physician, receptionist, a part time accountant (the doctor's wife) and Marybeth. Marybeth and the physician are frequently alone in his office and in the examining rooms. A year earlier Marybeth was experiencing some upsetting personal problems and confided in the doctor. Since that time he has become more and more familiar with her, putting his arms around her, kissing, and stroking her. At first Marybeth did not resist. She thought the doctor was trying to help her past a difficult time. After a few weeks, however, she became very uncomfortable and realized that his kisses and touches were not just supportive, but in fact, sexual. She told the doctor that she did not want any of this to continue, but he has ignored her and now calls her at home on weekends. Marybeth's workplace is not covered by current law. She is a single parent and afraid to quit her job given the current economic situation.

CASE B

Martha is a surgical resident in a mid-size hospital. One of the senior surgeons, a well respected man who practices in Martha's field, is covertly harassing her. He never misses the opportunity to rub against her, to touch her breast, put his arm around her waist. Martha has been firm in her distaste for his behavior, but it persists. She has spoken to one of the nurses about it and was told that this is just the way the doctor is. Martha is not the first to be harassed this way. This residency is very important to Martha's career. She has decided that she cannot afford to alienate this man by filing a complaint.

WHO ARE THE VICTIMS OF SEXUAL HARASSMENT?

Most people will experience some type of sexual harassment during their lifetime. While some men have reported being sexually harassed on the job, studies indicated that 50 to 90 percent of all working women

experience sexual harassment at some time during their working years. People often put up with these degrading experiences because of the fear of losing a job or a promotion, or of not being able to get a recommendation from their employer for a job elsewhere. Many people have been led to believe that they should be flattered by the milder forms of this kind of attention or that they are somehow to blame for the harassment. Because of these widespread social attitudes, sexual harassment victims often feel confused as well as ashamed or degraded. These feelings are injurious to their self esteem, can interfere with their work performance, and may cause excess absenteeism (RI Rape Crisis Center, Front Lines, February 1992).

THE RHODE ISLAND COMMISSION FOR HUMAN RIGHTS: THE REALITIES OF REPORTING

Because of the difficulty in winning sexual harassment cases, many attorneys are unable to take cases on contingency. Most victims cannot afford up-front legal fees. Fortunately, there is no charge for the services of the Rhode Island Commission for Human Rights, a state agency charged with the legal enforcement of civil rights matters. The Commission investigates all discrimination charges filed under Rhode Island General Laws Title 28, Chapter 5-13 (7)(A). With regard to legitimate cases, the Commission has the power to hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath, and/or to require the production for examination of any books and papers relating to any matter under investigation or in question before the Commission. Employers who fall under the purview of Rhode Island's laws against sexual harassment include the state, all political subdivisions thereof, and any person in the state of Rhode Island who employs four (4) or more individuals. The Commission also contracts with the Equal Employment Opportunity Commission (EEOC) to investigate and pursue claims. Finally, in addition to filing with the Human Rights Commission, Title VII cases are co-filed with the federal government if an employer employs fifteen or more individuals.

Women often do not believe they will be supported if they file sexual harassment charges. They often feel terrified of losing jobs and benefits and of not being able to support themselves and/or their children. Women often receive little or no encouragement to fight the harassment from family, friends, or co-workers. Frequently, women do not really know what to do or where to turn for help.

Ironically, recent high profile rape and harassment cases have in many ways been a great help to women. Sexual harassment is now commonly featured in the media. Sexual harassment is out of the closet at last. Employers (even the military) are getting the message that women will no longer quietly accept degrading behavior.

This new high profile has a downside, however. With the U.S. Senate's failure to take Anita Hill seriously, with the "not guilty" verdict in the William Kennedy Smith rape case, and with the current allegations against the complainant in the Tyson case, many women are still afraid to file charges. Certainly the risks are real. They include job loss, ostracizing within an industry, loss of friends, public ridicule, and increased emotional and physical stress.

Cases must be filed with the state commission within one year from the alleged date of harm. A case can be co-filed with the EEOC if it is filed within three hundred (300) days from the date of harm.

Due to major budget cuts in the past few years, the Commission, with a staff of ten, is understaffed. There is a five month backlog in case assignment. The Commission closed 322 cases between July 1, 1991 and June 30, 1992. The Commission's statistics indicate that 35 percent of the cases filed and closed were based on sex discrimination, and 38 percent of the sex discrimination cases included the basis of sex harassment.

WHAT CAN BE DONE ABOUT SEXUAL HARASSMENT?

Before taking any other action, a victim of sexual harassment should attempt to obtain copies of any written materials available from one's present employer which are evidence of a good work record. Then, the harasser should be told in a clear, firm manner that his/her behavior is not appreciated, that there are laws against such conduct, and that if it continues, he/she will be reported. If the sexual harassment continues, the victim should report the harasser to their employer, the Human Rights Commission or an attorney. Most employers and schools have written policies and guidelines for the investigation of sexual harassment charges. It is a good idea to keep a written record of each harassment incident including date, time, place, details and witnesses (RI Rape Crisis Center, Front Lines, February 1992).

SEXUAL HARASSMENT AND THE LAW: LEGISLATION, INFORMATION, CONSCIOUSNESS RAISING

Sexual harassment is unfair labor practice and is against the law. Confusion and controversy over the definition of sexual harassment continue in spite of recent heavy media coverage and in spite of the federal and state laws designed to protect women from sexual harassment in the workplace. Debate also continues to take place over methods to eliminate and/or control employment based sexual harassment.

LEGISLATION

At present, no state has a specific law against sexual harassment. In 1972, the federal Civil Rights Act was amended to include sexual harassment. In Rhode Island, sexual harassment is dealt with through the Rhode Island Fair Employment Practices Act, Section 28-5-7. (language of both might be included here)

INFORMATION

Currently, the Rhode Island Commission for Human Rights is the major source of information concerning sexual harassment in Rhode Island. Other sources of information, assistance and referral are the Equal Opportunity Office, the Providence Human Relations Commission, the Rhode Island Commission on Women, Rhode Island Working Women, and the Rhode Island Rape Crisis Center. In addition, many companies and agencies have adopted policies concerning sexual harassment. Recently, magazines, periodicals, newspapers, radio, and television have made a great deal of useful information available concerning the definition of sexual harassment, what to do if it is happening to you, and how and where to file a complaint.

CONSCIOUSNESS RAISING

The recent media blitz on the topic and the increased conversation it has encouraged are a first step to raising the consciousness of both women and men. We have a long way to go, however, until this new awareness results in effective behavioral change. Consciousness raising begins at home where children should be taught to respect each other, adults should respect each other, and children and adults should respect each other. It begins at school where good manners between the sexes is expected, taught, and enforced. Consciousness raising continues in communication between women, men, and women and men. Finally, consciousness raising occurs when women learn about and become comfortable speaking out against sexual harassment when it happens to them and/or to other women.

PARTIAL SOLUTIONS TO A COMPLEX ISSUE

1. Current laws must be enforced in a timely, clear manner.
2. More money needs to be allocated to agencies and organizations to support educational projects to schools, government, military, and business.
3. Innovative, attention grabbing educational/informational programs need to be developed and marketed.
4. Women must be encouraged to speak out and to support other women who are experiencing sexual harassment.
5. The Human Rights Commission must receive adequate funding to relieve the current backlog and to evaluate complaints in a timely fashion.
6. Further study should be done to identify means of overcoming barriers to filing complaints, such as the need to pay legal fees up front, a reality which is prohibitive for many victims of sexual harassment.
7. Sexual harassment often takes place in private with only the alleged victim and alleged perpetrator present. This lack of other witnesses often makes proving sexual harassment allegations extremely difficult. Further study should be done to identify strategies for dealing with this problem.

There is help....

Rhode Island Coalition Against Domestic Violence
324 Broad Street
Central Falls, RI 02863

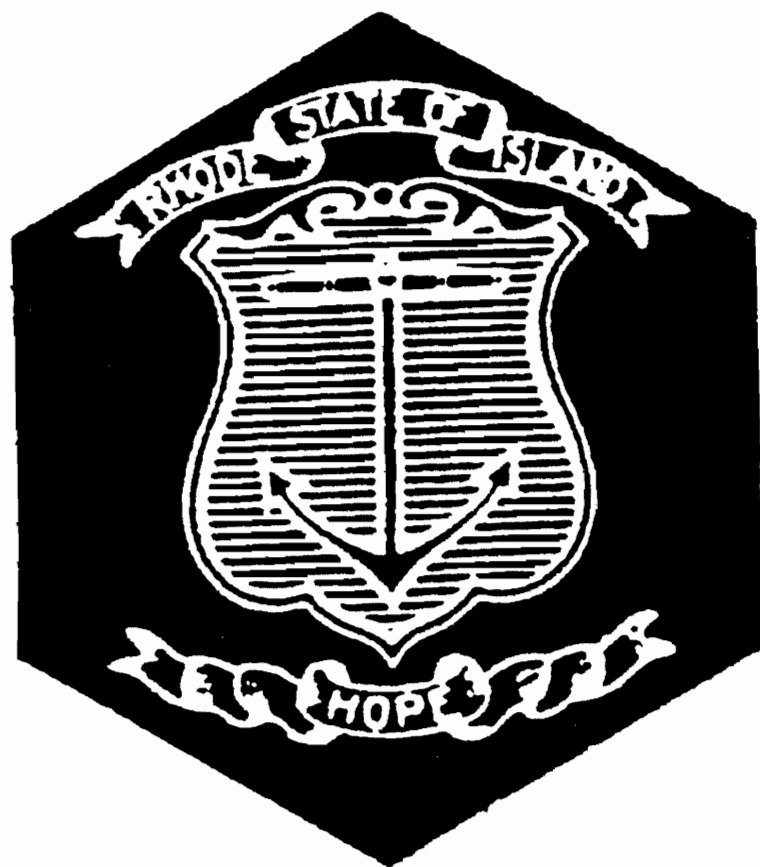
(401) 723-3051 Courthouse Office (401) 277-6936

Rhode Island Rape Crisis Center
300 Richmond Street
Suite 205
Providence, RI 02903-4222

(401) 421-4200 24-hour hotline

Rhode Island Commission for Human Rights
10 Abbott Park Place
Providence, RI 02903

(401) 277-2661



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RHODE ISLAND COMMISSION ON WOMEN

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